

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs January 23, 2008

**STATE OF TENNESSEE v. JOSHUA D. GRIFFITH**

**Direct Appeal from the Circuit Court for Montgomery County**  
**No. 40601281 Michael R. Jones, Judge**

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**No. M2007-00969-CCA-R3-CD - Filed February 21, 2008**

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The Defendant, Joshua D. Griffith, pleaded guilty to and was convicted of facilitation of aggravated robbery. In accordance with his plea agreement, he was sentenced as a Range II, multiple offender to serve eight years in the Department of Correction. In this direct appeal, the Defendant appears to argue that he received the ineffective assistance of counsel in that his sentence was improper. Following our review of the record and applicable law, we dismiss the Defendant's appeal.

**Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed**

DAVID H. WELLES, J., delivered the opinion of the court, in which THOMAS T. WOODALL and ROBERT W. WEDEMEYER, JJ., joined.

Joshua D. Griffith, Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; Cameron L. Hyder, Assistant Attorney General; John W. Carney, District Attorney General; and Steve Garrett, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

The record before this Court is indeed sparse. The technical record reflects that the Defendant was indicted for the offense of aggravated robbery. In accordance with his plea agreement, he entered a plea of guilty to facilitation of aggravated robbery, a Class C felony. In exchange for his agreement to plead guilty, he was sentenced to a term of eight years in the Department of Correction to be served as a Range II, multiple offender. In his written plea of guilty, the Defendant acknowledged that by pleading guilty and agreeing to his sentence, he was waiving his right to an appeal. The judgment of conviction was entered and filed on March 21, 2007. The Defendant's notice of appeal was filed on April 24, 2007. The record does not contain a transcript of the guilty plea proceeding.

Although the Defendant's brief is inartfully drafted, he appears to take issue with the effectiveness of his trial counsel, the sufficiency of the evidence against him, and the sentence he received. The State correctly points out that the Defendant's brief makes no references to the record or citation to any legal authority in support of his argument. The State argues that because the Defendant has failed to provide transcripts of the proceedings below, the record simply does not allow adequate review of any issues argued on appeal. For these reasons, the State argues that the Defendant has waived appellate review of the issues he attempts to present. We agree with the State's argument.

In addition, we note that an accused who enters a plea of guilty to a criminal offense generally waives the right to appeal. See State v. McKissack, 917 S.W.2d 714, 715 (Tenn. Crim. App. 1995). A criminal defendant who has been convicted upon a plea of guilty has the right to appeal only: (1) a certified question of law explicitly reserved at the time of the guilty plea, (2) a sentence that was not the subject of a plea agreement, or (3) an issue that is apparent from the record and has not been waived as a matter of law by virtue of the guilty plea. See Tenn. R. App. P. 3(b)(2); Tenn. R. Crim. P. 37(b)(2). See also State v. Mark Edward Ellis, No. W2006-00241-CCA-R3-CD, 2006 WL 2567480, at \*2 (Tenn. Crim. App., Jackson, Sept. 5, 2006). We also note that a defendant who enters a guilty plea waives non-jurisdictional defects and constitutional infirmities. See State v. Yoreck, 133 S.W.3d 606, 612 (Tenn. 2004).

The scant record before the court reflects that the Defendant entered into a negotiated plea agreement which included an agreed-upon sentence. There is nothing before this Court which indicates that the convicting court was without jurisdiction to convict and sentence the Defendant. Therefore, we conclude that the Defendant has waived his right to appeal from his conviction and sentence. Accordingly, this appeal is dismissed.

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DAVID H. WELLES, JUDGE